

MAY 13, 2009

KAREN S. MITCHELL

CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

ALLEN DEWAYNE BATES, PRO SE,
County No. 24958,

Plaintiff,

v.

2:09-CV-0059

RANDY DUVAL, MARY WILLIS,
and THE CITY OF AMARILLO,

Defendants.

**ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS
AND ORDER OF DISMISSAL**

Plaintiff ALLEN DEWAYNE BATES, while a prisoner incarcerated in the custody of the Randall County Jail, has filed suit pursuant to Title 42, United States Code, Section 1983 complaining against the above-named defendants and requesting permission to proceed in forma pauperis.

On March 20, 2009, a Report and Recommendation was issued by the United States Magistrate Judge analyzing plaintiff's litigation history and concluding he is barred from proceeding in forma pauperis in the instant cause pursuant to Title 28, United States Code, section 1915(g). The Magistrate Judge recommended that plaintiff's request to proceed in forma pauperis be denied and the instant cause be dismissed for failure to pay the filing fee. Plaintiff was given fourteen days in which to pay the filing fee or file his objections to the Report and Recommendation.

The response period has expired, and no objections have been filed by plaintiff nor has the filing fee been paid.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation. The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge in this case.

Plaintiff's motion to proceed in forma pauperis is DENIED.

IT IS THEREFORE ORDERED that the Civil Rights Complaint filed pursuant to Title 42, United States Code, section 1983, by plaintiff ALLEN DEWAYNE BATES is DISMISSED WITHOUT PREJUDICE TO REFILING WITH PREPAYMENT OF THE FILING FEE. 28 U.S.C. § 1915(g).

LET JUDGMENT BE ENTERED ACCORDINGLY.

The Clerk will mail a copy of this Order to the plaintiff and to any attorney of record by first class mail.

IT IS SO ORDERED.

SIGNED AND ENTERED this 13th day of May 2009.

/s/ Mary Lou Robinson
MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE